


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

UNITED STATES, :
 :
Plaintiff, : Criminal No. 03-203
 : (Honorable Judge Gary L. Lancaster)
v. :
 :
EXTREME ASSOCIATES, INC., :
ROBERT ZICARI, and JANET :
ROMANO, :
 :
Defendants. :

MOTION FOR RECONSIDERATION

AND NOW, THIS 32 DAY OF
Jan, IT IS HEREBY
ORDERED THAT THE WITHIN
MOTION IS DENIED.

GARY L. LANCASTER,
UNITED STATES DISTRICT JUDGE

Come now Defendants, Extreme Associates, Inc., Robert Zicari, and Janet Romano, by and through their respective counsel, and respectfully move the Court to reconsider the Order entered on January 15, 2009, wherein the Court rejected Defendants' assertion that the material to be taken as a whole is the entire www.extremeassociates.com Website, including every subsequent Webpage or URL associated with that domain name, and instead found that each individual digital video clip independently constitutes "the whole" for the purposes of the first and third prongs of the *Miller* obscenity test.

While Justice Kennedy's concurrence in *Ashcroft v. American Civil Liberties Union*, 535 U.S. 564 (2002), entertaining the possibility that entire domains, or even the Internet, might constitute "the whole" is not itself controlling law, the Third Circuit has explicitly taken Kennedy's question into consideration. In *American Civil Liberties Union v. Ashcroft*, 322 F.3d 240, 252-253 (3d Cir. 2003), the Third Circuit went even further than the Supreme Court majority in *Ashcroft*,